

**Testimony of the U.S. Public Interest Research Group  
(U.S. PIRG)**

**Edmund Mierzwinski, Consumer Program Director**

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**“Legislation**

**To Improve Consumer Product Safety For Children,  
H.R. 2474, H.R. 1699, H.R. 814, And H.R. 1721”**

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**Before The  
Commerce, Trade And Consumer Protection Subcommittee  
Of The House Committee On Energy And Commerce**

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**The Honorable Bobby Rush, Chairman**

**6 June 2007**

Chairman Rush, Ranking Member Stearns, Vice-Chair Schakowsky and members of the committee: We are pleased to offer the views of the non-partisan, non-profit U.S. Public Interest Research Group and its members on the important child and other product safety matters before the committee today. To those members unfamiliar with our work, in 2006 we released our 21<sup>st</sup> annual Trouble In Toyland report, following up on our long advocacy campaign, along with the Consumer Federation of America, Consumers Union and others, for passage of the 1994 Child Safety Protection Act. The annual toy reports have resulted in at least 125 CPSC or manufacturer recalls or other safety actions.<sup>1</sup> We also comment regularly before the Consumer Product Safety Commission on a variety of safety matters.

### **Summary:**

U.S. PIRG supports the goals of all four bills before the committee. We strongly support HR 1699, the Danny Keysar Child Product Safety Notification Act. We strongly support HR 2474, to increase maximum civil penalties. We support the goals of HR 1721, the Pool and Spa Safety Act, but offer perfecting amendments to improve the bill. Similarly, we support HR 814, the Children's Gasoline Burn Prevention Act, but offer perfecting amendments to improve the bill.

### **Discussion:**

The Consumer Product Safety Commission is a tiny agency with a massive workload. It regulates 15,000 separate consumer products. Its flat budget of about \$63 million dollars and its staff of just over 400 staff (and falling) have tremendous safety responsibilities. In addition, the staff labor with regulatory handcuffs that counterpart agencies do not have, including the notorious Section 6(b) of the Consumer Product Safety Act., a one-of-a-kind provision that places a gag order on the commission's ability to inform the public of safety actions without seeking permission from its regulated entities first. While the consensus bills before you today will not solve all the CPSC's fiscal and regulatory problems, they will give it more regulatory tools to protect the public. Second, they focus on preventable problems that largely affect one of the CPSC's most important constituencies: small children who cannot help themselves.

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<sup>1</sup> We say "at least 125" only because due to the difficulty of obtaining information from the CPSC as a result of the unwise restrictions posed by Section 6(b) of the Consumer Product Safety Act, 15 U.S.C. 2051–2084, we don't know whether the CPSC has taken additional actions but failed to tell us.

We fully support the following bills with no changes:

**HR 1699: the Danny Keysar Child Product Safety Notification Act:**

This legislation from Vice-chair Jan Schakowsky addresses one of the troubling problems that the CPSC faces: how to ensure that recalled products are actually tracked down and recalled from the market. The legislation would establish for an improved recall registration card mechanism for finding recalled durable infant or toddler products. In the past, dual-use warranty registration cards have had a low trust factor. Consumers don't fill them out because they will also be used for marketing. As many members of the committee are aware, U.S. PIRG is a strong champion of consumer privacy. We believe that this bill strikes the right balance by prohibiting the use of information on recall registration cards for any secondary purposes. Safety is better served by protecting privacy, too. The bill also requires that manufacturer-contact information be securely placed on these durable products, which are often handed-down to relatives or friends or sold in second-hand shops.

**HR 2474, Increasing Civil Penalties:**

This legislation sponsored by Chairman Bobby Rush has a simple goal that everyone should support: no company should be able to design a business model with callous disregard for the law's intent to protect the public from safety hazards. No company should ignore safety because it believes that the cost of civil penalties will be less than the cost of compliance. In particular, as Consumers Union points out in its testimony today, a number of recent cases have shown that companies are failing to report product safety hazards under CPSA Section 15(b). These firms are ignoring the law's clear notification of potential hazard requirements and placing the public at risk. The only solution to these and other violations of the act is to increase the penalties for lawbreaking.

We support the following two bills only with suggested amendments:

**HR 814, the Children's Gasoline Burn Prevention Act**

This legislation from Rep. Dennis Moore and others addresses a simple flaw in the law. The CPSC reports that each year 1,270 children under age 5 are treated in hospital

emergency rooms for injuries resulting from portable gas containers that are not childproof. The reason? These containers are often sold empty, and therefore are not required to meet the child-proof requirements of the 1973 Poison Prevention Act.

We recommend that the bill should be broadened to also apply to kerosene containers, which pose similar burn or poison risks. Also, as Consumers Union points out, the standard that the bill relies on, ASTM F2517-05, can be defeated by about 20% of children, but to strengthen the rule would make it more difficult for some adults to use the cans.

### **HR 1721, the Pool and Spa Safety Act**

This laudable legislation by Rep. Debbie Wasserman Shultz and co-sponsors was introduced in response to a number of horrific tragedies caused by entrapment, entanglement and evisceration hazards posed by the tremendous suction power of pool and spa filters and drains. The bill uses a layered defense approach. It requires new construction of pools and spas to include drains with covers meeting enhanced safety standards. It establishes a program of grants to states to encourage greater pool and spa safety. It enhances CPSC drowning education programs.

We generally support the goals of the legislation provided that it is made clear that its grants program comes from entirely new appropriations and does not reduce the CPSC's ability to carry out its other duties. We believe that this is the intent of the sponsors but with the tiny CPSC facing numerous demands on its limited resources, this should be made clear. We would also note that recently, the CPSC reduced its work<sup>2</sup> on drowning from a strategic goal to a project, suggesting that "resource limitations" were inadequate. So, in addition to the funding for the grants, the Congress must consider adding staff both to administer the grants program and to upgrade the CPSC's capability to run major programs to reduce drowning.

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<sup>2</sup> See, for example, 2007 CPSC Performance Budget , <http://www.cpsc.gov/CPSCPUB/PUBS/REPORTS/2007OperatingPlan.pdf> Also see the Federal Register notice at June 7, 2006 (Volume 71, Number 109 [Page 32929-32930] which states the following: "The revised plan will provide an overall guide to the formulation of future agency actions and budget requests. Because of resource limitations, staff is proposing to delete the ``Keeping Children Safe from Drowning'' goal in the current, 2003 Strategic Plan. Work in this area would continue at the project level with expanded public information efforts, such as partnerships with child safety organizations, to reduce child drownings."

We also believe that preference should be given in the grants program such that it encourage new states to establish pool and spa safety programs, rather than simply provide funds for the ongoing programs of states already administering programs. The limited federal funds should be used as a carrot.

We recognize that some of these amendments may be more properly made in the Appropriations Committee.

Finally, we would concur with the Consumers Union in recommending that the bill's education programs be expanded to include coverage of hazards inherent in all pools, including above-the-ground and inflatable pools.

## **Conclusion**

We appreciate the subcommittee's interest in our views. We also want to commend the subcommittee on its commendable efforts to begin early in the Congress to move significant pieces of product safety legislation. The record you are building in your series of hearings will also help more members to understand the severe limitations in both funding and regulatory authority faced by the CPSC. We hope to work with you to encourage, among additional improvements to the Consumer Product Safety Act, the elimination of its Section 6(b) and the improvement of its hazard reporting requirements under Section 15(b), rather than the weakening sought by industry. We further associate ourselves with the detailed testimony on CPSC Reauthorization issues presented by the Consumer Federation of America at the subcommittee's recent hearing on children's safety.<sup>3</sup> We look forward to working with the committee on further product safety inquiries.

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<sup>3</sup> Testimony before the subcommittee of Rachel Weintraub, Consumer Federation of America, 15 May 2007, available at [http://energycommerce.house.gov/cmte\\_mtg/110-ctcp-hrg.051507.Weintraub-testimony.pdf](http://energycommerce.house.gov/cmte_mtg/110-ctcp-hrg.051507.Weintraub-testimony.pdf)